

KEVIN V. RYAN (CASBN 118321)  
United States Attorney

EUMI L. CHOI (WVSBN 0722)  
Chief, Criminal Division

ROBERT DAVID REES (CASBN 229441)  
Assistant United States Attorney

450 Golden Gate Ave.  
San Francisco, California 94102  
Telephone: (415) 436-7210  
Facsimile: (415) 436-7234

Attorneys for Plaintiff

UNITED STATES MAGISTRATE COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,	)	No.: CR 06 0066 MMC
	)	
Plaintiff,	)	<b>[PROPOSED]</b>
	)	ORDER OF DETENTION
v.	)	PENDING TRIAL
	)	
SHAWN RUFFIN,	)	
	)	
Defendant.	)	

This matter came before the Court on February 3, 2006 for a detention hearing. Defendant Shawn Ruffin was present and represented by Chief Assistant Federal Public Defender Geoffrey Hansen. Assistant United States Attorney Robert David Rees appeared for the United States of America.

Pretrial Services submitted a report to the Court and the parties that recommended detention, and a representative of Pretrial Services was present at the hearings. The government requested detention, and the defendant opposed. Proffers and arguments affecting detention were submitted by the parties at the hearings.

Upon consideration of the facts, proffers, and arguments presented, the Court finds by

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1 clear and convincing evidence that no presently available condition or combination of conditions  
2 of release will reasonably assure the safety of the community as required. Accordingly, the Court  
3 concludes that the defendant must be detained pending trial in this matter. The present order  
4 supplements the Court's findings at the detention hearing and serves as a written findings of fact  
5 and statement of reasons as required by 18 U.S.C. § 3142(i)(1).

6 The Bail Reform Act of 1984, 18 U.S.C. §§ 3141–50, sets forth four factors which the  
7 Court must consider in determining whether pretrial detention is warranted. These factors are:

- 8 (1) the nature and circumstances of the offense charged (§ 3142(g)(1));
- 9 (2) the weight of the evidence against the person (§ 3142(g)(2));
- 10 (3) the history and characteristics of the person including, among other  
11 considerations, character, employment, family, and past conduct and criminal  
12 history (§ 3142(g)(3)); and
- 13 (4) the nature and seriousness of the danger to any person or the community that  
14 would be posed by the person's release (§ 3142(g)(4)).

15 With regard to the first factor, the nature and circumstances of the offense charged, the  
16 defendant, a convicted felon, is accused of possessing a firearm and approximately 181 grams of  
17 cocaine base with intent to distribute it, in violation of 18 U.S.C. § 922(g)(1) and 21 U.S.C. §  
18 841(a)(1) respectively. The narcotics charge establishes a presumption that no combination of  
19 conditions will reasonably assure the appearance of the person as required and the safety of the  
20 community. *See* 18 U.S.C. § 3142(e). Nevertheless, the Court does not find it necessary to rely  
21 on the nature and circumstances of this offense in making its determination.

22 The second factor, the weight of the evidence, is considered the least important of the  
23 factors. The Bail Reform Act neither requires nor permits a pretrial determination of guilt.  
24 *United States v. Gebro*, 948 F.2d 1118, 1121–22 (9th Cir. 1991). Here, the criminal complaint  
25 indicates that the defendant's DNA matches a sample found on the firearm, though once again,  
26 the Court does not find it necessary to rely on the current charges in making its determination.

The Court finds that the third factor, the history and characteristics of the defendant, militate strongly against the defendant and in favor of detention. The Pretrial Services Report confirms the defendant has a lengthy criminal history. Although the defendant is only 26 years old, he has already been convicted of three serious felonies and, while on release from those crimes, violated his Court-ordered parole conditions at least six times resulting in the revocation of his probation and further custody.

With respect to the fourth factor, the nature and seriousness of the danger to the community, the Court again takes notice of the defendant's criminal history, and finds that no matter the Court-ordered conditions that have been imposed upon the defendant, he has continued to commit serious crimes in the community.

Accordingly, based on all of the evidence above, the Court finds by clear and convincing evidence that no condition or combination of conditions of release will reasonably assure the safety of the community.

Pursuant to 18 U.S.C. § 3142(i), IT IS ORDERED THAT:

(1) the defendant, Shawn Ruffin, be, and hereby is, committed to the custody of the Attorney General for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal;

(2) the defendant be afforded reasonable opportunity for private consultation with his counsel; and

(3) on order of a court of the United States or on request of an attorney for the government, the person in charge of the corrections facility in which the defendant is confined shall deliver the defendant to an authorized Deputy United States Marshal for the purpose of any appearance in connection with a court proceeding.

Dated: February 10, 2006

  
 HON. JOSEPH C. SPERO  
 United States Magistrate Judge